

BOARD OF MAYOR AND ALDERMEN

November 18, 2003

7:30 PM

Mayor Baines called the meeting to order.

The Clerk called the roll.

Present: Aldermen Wihby, Gatsas, Guinta, Sysyn, Osborne, Pinard, O'Neil,
Lopez, Shea, DeVries, Garrity, Smith, Thibault and Forest

Mayor Baines stated before I begin the meeting I wanted to acknowledge that today is Katie McQuaid's last time covering City Hall and I want to thank her for her outstanding reporting. She is a reporter that looks for the story and only the story and I always appreciated dealing with her on issues facing City government because you always knew she was going to be fair and she is really a good example of journalism at its best and I want to congratulate you, Katie, on your new assignment. I wish you all the best. You deserve it.

CONSENT AGENDA

Mayor Baines advises if you desire to remove any of the following items from the Consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

BMA Minutes

- A.** Minutes of meetings held on July 15, 2003, August 4, 2003 (two meetings), August 5, 2003 (two meetings), August 27, 2003, September 2, 2003 (two meetings), September 9, 2003, September 29, 2003, October 7, 2003 (two meetings), October 21, 2003 (two meetings), and November 5, 2003 (two meetings).

Approve Under Supervision of the Department of Highways

- B.** Pole License Petitions:
- 1) Verizon New England and PSNH Pole Petitions for conduit and buried cable on Ledge wood Way, Harmony Way, Heritage Way, Serenity Way and Victorian Way.
 - 2) Verizon New England Pole Petitions for conduit and buried cable on Winston Street, Gay Street, Nutfield Lane, Manchester Street, Hanover Street, and Elgin Avenue.
 - 3) Verizon New England and PSNH Pole Petitions for conduit and buried cable on Gates Street, Brown Avenue, Coldwell Street, Parker Street, Readey Street, Roosevelt Street, Victoria Way, Barstow Way, Greystone Way, Ledge wood Way, Stagecoach Way, Notre Dame Avenue, and Coolidge Avenue.

Informational – to be Received and Filed

- C.** Copies of minutes of the Manchester Conservation Commission held October 20, 2003.
- D.** Communication from the Manchester Transit Authority submitting minutes of the September 30, 2003 meeting as well as Financial and Ridership Reports from the month of September 2003.
(Note: available for viewing at the Office of the City Clerk and forwarded under separate cover to Mayor and Aldermen.)
- E.** Copy of a communication from the NH Department of Revenue Administration advising that the City's 2003 tax rate has been computed and established.
- F.** Communication from the NH Department of Transportation submitting contemplated awards.

HAVING READ THE CONSENT AGENDA, ON MOTION OF ALDERMAN O'NEIL, DULY SECONDED BY ALDERMAN DEVRIES, IT WAS VOTED THAT THE CONSENT AGENDA BE APPROVED.

Report of Committee on Traffic/Public Safety

- G.** Recommending that regulations governing standing, stopping, parking and operations of vehicles be adopted and put into effect when duly advertised and posted.

Deputy Clerk Johnson stated this item refers to a report of the Committee on Traffic. There was a slight error contained within the report and we would like a motion to amend the report at the recommendation of the Committee on Traffic who were polled. It is in regards to the Youville Street area. The changes are No Parking During School Hours on Youville Street, east side, from Mason St. to a point 210 feet north (emergency act); Parking One Hour During School Hours on Youville Street, east side, from a point 210 feet north of Mason Street to Dexter Street (emergency act); and Rescind Parking One Hour During School Hours on Youville Street, east side, from Mason Street to Dexter Street. We are replacing the two items listed with these three items.

On motion of Alderman Wihby, duly seconded by Alderman Forest it was voted to amend the report as noted above and to accept the report as amended.

There were no nominations.

OTHER BUSINESS

A report of the Committee on Bills on Second reading was presented recommending that an Ordinance:

“Amending Sections 33.024, 33.025 and 33.026 (Laborer – Drop Off Facility) of the code of Ordinances of the City of Manchester.”

ought to pass.

On motion of Alderman O’Neil, duly seconded by Alderman Lopez, it was voted to accept the report.

A report of the Committee on Bills on Second reading was presented asking that the Board consider submissions by the Planning Director of Ordinance Amendments as follows:

“Amending the Zoning Ordinance of the city of Manchester by clarifying Section 4.01 Establishment and Purpose of Districts subsection (5) Residential Suburban Multifamily District (R-SM) by clarifying the purpose of the district and the minimum size.”

“Amending the Zoning Ordinance of the City of Manchester by extending the R-SM Zoning District to include the full extent of a parcel of land on Old Wellington Road (Map 645, Lot 10) currently zoned R-1A.”

and refer same to a Public Hearing to be scheduled by the City Clerk at least 30 days following notification to the Planning Board, Building Department and City Solicitor for review; and to the Committee on Bills on Second Reading with reports to be made at a later date.

Alderman Wihby moved to accept the report. Alderman DeVries duly seconded the motion.

Alderman Wihby asked the last part that says at least 30 days following notification, does that mean that the Clerk lets them know and then that is the 30 days or are we going to have to have them come back to the Committee.

Deputy Clerk Johnson answered under the policy that the Committee on Bills on Second Reading was considering this evening the Planning Director will notify those departments and we will then immediately set a hearing 30 days henceforth.

Mayor Baines called for a vote. There being none opposed, the motion carried.

Alderman Gatsas stated I had a question of the Finance Department that Mr. Clougherty said he was going to address the full Board on. Kevin, can you enlighten us on that \$1.1 million of disbursement please? Can we have him come in front of us so I can see him?

Mayor Baines responded no he can stay where he is.

Mr. Kevin Clougherty stated the Alderman asked a question regarding Singer Park and during the period between meetings, 20 minutes, I wasn't able to do thorough research but the \$1,143,000 that was included in the requisition that you are questioning is for acquisition. It is an allowable budget item. It has been in the project budget from the start and was part of the projects documents that were provided to the Committee and to the Aldermen right along. The understanding of the business deal has always been that the stadium developer and the development group would take care of Singer Park initially and all of the debts related to Singer Park and that they would be putting at risk their money to take care of those issues in the chance that the major project did not go forward. So when asked have they paid the money, they did. They did pay the money at the time the questions were raised is my recollection. That dollar amount is then eligible to be reimbursed under the acquisition portion of the stadium budget, which has always been there.

Alderman Gatsas stated I believe that 13 of my colleagues sitting here that at no time did any of us and I am speaking at least from my point of view, at no time did I ever believe that the City was going to reimburse the developer \$740,000 to \$790,000 for Singer Park. At no time did I ever believe that. I believed that was part of the transaction and part of the in money to do the deal.

Mayor Baines asked wasn't that part of the agreement that was approved by the Board.

Mr. Clougherty answered yes.

Alderman Gatsas stated if I asked a survey of this Board right now, your Honor, I think you are going to get because I am getting some looks out there that are really hazed over and I don't think anybody on this Board, your Honor, understood that as being the deal.

Mayor Baines responded the Finance Officer has answered the question. He said it is part of the deal and it was part of the deal approved by the Board of Mayor and Aldermen and that is part of the deal.

Alderman Gatsas replied so what you are saying is the assumption by this Board that that was...I guess my next question Kevin then is if we own everything that is there because we are reimbursing the developer then why don't we own the bleachers. Why are we looking to get that deducted from the total? Why don't we own the scoreboard and why don't we own everything else that is down there?

Mayor Baines stated what I would like to do is on any other related issues is to have it referred to the Special Committee and have it sorted out. We are not going to sort out those things this evening.

Alderman Gatsas stated your Honor I think it is a very important issue because I think this Board was deceived.

Mayor Baines responded well I don't believe it was at all.

Alderman Gatsas stated well I think if we ask for a roll call.

Mayor Baines responded well I don't think we are doing a roll call. You raised a question. It was answered. It was in the documents approved by the Board of Mayor and Aldermen. It is the responsibility of every member of this Board to read the documents that you approve.

Communication from Alderman Osborne requesting that the Board consider retaining the property on Old Wellington Road to be utilized for replacement of Singer Park for soccer fields and lacrosse events.

Alderman Osborne stated back to Wellington Road again I guess. Basically I hate to reiterate what I said at the Lands and Buildings meeting that we had but like I said before I have nothing against MHA or Mr. Anagnost or Red Oaks or anybody else. I am just going with my heart here. That's all. Basically I think it is a nice piece of land. It is on the exchange where it has easy off and on access. I am sorry that the elderly center wasn't put there but that is in the past now. Again, there is a lot of impact to look at here in this proposition that we are coming across this evening. Basically if we do sell it we have to look at what the impact is, which we never do. There is never any impact brought up in anything that I have seen since I have been on the Board basically. True impact. Schools, teachers, signal lights and whatever it might be at that particular site. On top of that if somebody buys it...again nothing against MHA or Mr. Anagnost but MHA as far as taxes are involved they are only going to be paying 10% of the income of what that produces so it is not full taxation there number one. So, the true figure of \$1.3 or \$1.1 million or whatever is going to be gone in no time over a period of time. It is all sunken in and forgotten about. It is something that the taxpayers of Manchester basically cannot see once it is gone and forgotten. I am bringing it up once again. As far as low cost housing, I don't believe there is too much of that around. There is \$850 to \$1,200 a month rent. I don't see it in my ward. Anyway, if the person can't come up with \$850 or \$1,200 a month then it is Section 8. Again, the taxpayers are involved and it is just a round about thing. Basically, for low-income housing I think we have met our quota. According to the Master Plan of 2000 we have met our quota and that is with the Southern NH Planning Commission. We have I guess 540 credits and so on. In other words, we met our quota from what I understand and having low-income housing it is like putting the cart before the horse whereas we need industry, no doubt about it. We don't want to be a City where we are putting all kinds of low-income housing up there and everybody works in Lowell or Boston and they commute from here to there and we are stuck with schooling and teachers and everything else. We have to kind of watch out here. I think we are going a little too fast, too quick like I said before.

Mayor Baines stated since the Board has already taken action with regards to Wellington Road how would this motion work. Would they have to reconsider all of the other actions that were taken? Really the motion is not even appropriate.

Alderman Osborne moved to keep Wellington Road.

Mayor Baines replied there is a question here because the Board has already taken an action on that.

Alderman Osborne stated I am looking for reconsideration.

Mayor Baines responded a motion for reconsideration must be made at the meeting that the decision is made.

Deputy Solicitor Arnold stated certainly if the Board were now to decide to retain the property for whatever public use it wouldn't necessarily involve a reconsideration of its prior action, which was to go back out for an RFP on that particular property.

Mayor Baines responded let's just take a vote on this.

Alderman Shea asked may I speak.

Mayor Baines answered I am going to let you speak but the bottom line is this issue has been discussed over and over and over again and it keeps

Alderman Shea stated I just wanted to elaborate on what Alderman Osborne indicated. I realize that a lot of people here have already made up their minds and there is probably a decision that is forthcoming. The Southern NH Planning Commission has listed their housing needs assessment requirements as he alluded to and according to our Master Plan of 1993, Manchester has met their fair share of affordable housing or workforce housing. We have, and he addressed this problem, 514 credits. The other New Hampshire communities range from 219 to 2. Our neighboring community, Auburn, has two. The thing is we are not only taking people from other communities but we are subsidizing other communities. We are subsidizing Goffstown and Londonderry and Hooksett. We are carrying more than our share of the burden and as Alderman Osborne succinctly pointed out at the recent Lands and Buildings Committee meeting the selling of Old Wellington Road property will result in substantial financial impacts in the aftermath of the sale. So what we have to do is we have to say are we willing to put the City in a financial situation by a) profiting from the sale of this land and, b) being obligated to provide services for all of the components of this land? I realize that there have been amendments made at the State level and I think Alderman Gatsas would probably be more familiar with Senate Bill 95 but I think, your Honor, that we have to

be careful that we don't do an injustice in this City to the citizens. That is what I would like to express to you. The actual impact of this is not in the year 2003, but 2004, 2005, 2006, 2007 and 2008.

Mayor Baines stated I appreciate your comment but I want to tell you that the most critical need in this community is housing. That is the number one issue affecting our community.

Alderman Thibault stated I agree with Alderman Shea's assessment of Southern NH Planning Commission's survey. I am the liaison between the Board and the Southern NH Planning Commission and I know the statistics are right and he is right on the money on this. The point is that this Board has to look where this is going. How many times have we voted on this issue? It is my opinion and the Lands and Buildings Committee made their decision and the Board made their decision.

Mayor Baines stated I am calling for a vote after Alderman Garrity speaks.

Alderman Garrity stated I think what is important with this land is it has been sitting vacant for years. The price tag on it is up there and what is more important is that as Mr. MacKenzie from Planning estimated it is going to add \$200,000 in tax revenue for the City. It is time to get this on the tax rolls. I know that Alderman Osborne wants to make it a park or something like that. There is plenty of parkland up there and we have a hard time maintaining the parks that we do have. It is about time we got this land on the tax rolls and I will move to receive and file.

Mayor Baines called for a vote. If you pass this motion you are going to consider retaining that property. If you vote yes then we consider retaining it and if you vote no then we don't. The motion failed.

Copy of a communication from Attorney Robert E. Murphy, Jr. to Thomas Arnold requesting reconsideration of the City's decision to award sale of the Canal Street Parking Garage and the sale of real property located on Old Wellington Road (a/k/a Map 645, Lot 10).

Alderman Thibault asked before we go anywhere could we have the attorney address the Board and let us know exactly where we are at on this thing.

Deputy Solicitor Arnold stated I am not sure what the question is. The Board took an action to reject all bids, have an RFP drafted and report back to the Lands and Buildings Committee. That is where it presently stands.

Mayor Baines responded we have already taken an action on this so what do we recommend. The Board needs to deal with this and receive and file or whatever you want to do.

Alderman Thibault stated maybe the Planning Board, your Honor, could give us some insight.

Mayor Baines responded no I think the City Solicitor is saying we already dealt with that issue. We signed the agreements, right? Isn't that what we are talking about here?

Deputy Solicitor Arnold replied I am sorry. There are two items in this particular letter. One is the garage and there is a binding purchase and sale on that garage at this point. The second piece of property was the one that I am referring to, which is the property on Old Wellington Road.

Mayor Baines stated so we should take up the second part of that issue only right.

Alderman O'Neil moved to reconsider.

Mayor Baines asked would that be the motion that we would need.

Deputy Clerk Johnson answered yes.

Alderman Smith duly seconded the motion.

Alderman Guinta stated I just want to make sure and clarify what we are voting on. What we are voting on is not Canal Street. We are only voting to reconsider selling this property?

Mayor Baines answered yes.

Alderman Gatsas stated I have a question of clarification. I know that the parking garage was a significant part of the building there. I would assume if that is the case then we should be putting in a deed restriction that the garage would stay with that building to make sure that it is not separated if that is the reason that we were selling the garage to the abutter. Wasn't that the reason that we were selling the garage to the abutter because it was significant to that property so shouldn't the deed contain a deed restriction that that garage would have to move with the property?

Mayor Baines stated let the Solicitor respond to that.

Deputy Solicitor Arnold responded as I said we have a binding purchase and sale on the garage at this point. I don't think it would be appropriate to try and add conditions at this time.

Mayor Baines stated the only issue that I am entertaining on the floor is the reconsideration of the Old Wellington Road property. That is what the vote is going to be on – reconsidering that issue.

Alderman Wihby asked are we reconsidering this because the vote was to go back out to bid.

Mayor Baines answered that is correct.

Alderman DeVries stated I would like clarification if there is any possibility without going back out to an RFP for the closing date on this property to shift so that tax reduction...

Mayor Baines interjected it cannot be done. The tax rate has already been set.

Alderman DeVries responded I am not talking for this year. I am talking for next year. Right now the RFP reads that the closing had to be by June 30 so we could adopt it as part of this tax year that just went to Concord. If we wish to go back out to RFP we can then shift it to a future year and we can build it into next year's budget. I am saying that we can take that full \$1.2 million and apply it next year if it is adjusted to July 1.

Mayor Baines stated we have already set the tax rate without that project. We also have an ordinance that we established an account that for any sale of property that money goes into the account, not against the tax rate unless there is an action by 10 votes of the Board to change that. This is not an issue related to tax rates.

Alderman DeVries responded actually it is because if we build it into the budget the next budget year when we go through the budget process again if it is built in the same way it was this year...

Mayor Baines interjected with 10 votes.

Alderman DeVries replied correct. What I am saying is right now June 30...if we were able to change that date to a different date...

Mayor Baines interjected again you are not correct on that. The motion on the floor right now is on reconsideration. That is the only thing we are discussing. Do you want to reconsider or do you not want to reconsider?

Alderman Shea stated I would like the representative from MHRH to come forward briefly for a question. In this reconsideration, only one party brought this reconsideration forward. You did not bring it forward from MHRA. Why not?

Mr. Dick Dunfey responded that is correct. This is an action taken by the private developer involved in a joint initiative with the Housing Authority. I am merely here to reiterate our opinion concerning the need for workforce housing in the City of Manchester.

Alderman Shea asked why didn't you see the need or the urgency of bringing it forward.

Mr. Dunfey answered it was not a matter of not considering it an urgent matter. We felt that it was best...we have an excellent relationship with the City that we would like to continue...

Alderman Shea interjected right but the argument we have here this evening is there is an extreme need for affordable housing yet your agency did not see the need to bring that forward. That is what confuses me.

Mr. Dunfey replied well we are bringing it forward through my presence here and the presence of our Board of Commissioners this evening as well.

Alderman Shea stated the presence is one thing but the actual submission of a reconsideration vote is another thing. Isn't that possible?

Mr. Dunfey responded that is possible.

Alderman Shea stated that is possible and probably right so in my judgement if there was an absolute need, not a relative need but an absolute need to bring this forward you folks at the Manchester Housing Authority would have been part of the reconsideration in my judgement.

Alderman Lopez asked, Mr. Arnold, in regards to this reconsideration vote is there another legal document that is in your office in reference to if we reconsider...is there another letter from some other party or the first bidder. A legal document in your office as to what he would do if we did reconsider this? If we reconsider this, do you have in your possession another letter from the other party that we rejected at the last meeting when we rejected all bids and decided to go out for another RFP? Do you have another legal document?

Deputy Solicitor Arnold answered all I have is the document that I think this Board has already seen. There was a letter from Red Oak to my office that was presented I believe at the meeting before last and the letter from Mr. Murphy. Those are the only ones I am aware of unless I am missing something.

Alderman Lopez stated in reference to this as a legal...if we reconsider this and that legal document that you have from Red Oaks, does that have any bearing whatsoever as to the ramifications that we have as a City.

Deputy Solicitor Arnold responded I think that this Board already acted on Red Oak's request when it voted to reject all bids and ask for an RFP to be drafted and presented to the Lands and Buildings Committee.

Alderman Lopez asked so we would be okay to vote for reconsideration and that legal document that you have has no bearing on what we do here tonight.

Deputy Solicitor Arnold answered I am not sure what you mean by no bearing, Alderman. We offered our opinion before that if this Board wanted to it could reject all bids and go back out for an RFP. I am just not sure what you are asking.

Mayor Baines stated I am going to ask the Clerk to clarify.

Deputy Clerk Johnson stated the motion on the floor is to reconsider. If that reconsideration comes forward and actually passed then the motion on the floor at that point in time goes back to the last meeting of the Board when the motion was to refer the item to staff to develop an RFP to present to Lands and Buildings and to reject any and all bids received. I think, if I understand Alderman Lopez's line of questioning, his question to the Solicitor is if, in fact, that reconsideration comes forward and that motion then fails and the Board wishes to go back to where it was at where does that leave it. That is what he is trying to find out.

Mayor Baines called for a recess.

Mayor Baines called the meeting back to order.

Alderman Gatsas stated I believe I made a motion last week and I will make it again this evening that we negotiate with the abutter.

Mayor Baines responded well we would need a motion for reconsideration first.

Alderman Gatsas stated I don't believe we need a motion for reconsideration and I will tell you the reason why is because two weeks or four weeks ago there was a Rule 14 that came before this Board. We voted to sell the property to Dick Anagnost. To reinsure that we had to bring out of Lands and Buildings a motion that it was surplus property, which we did and the full Board voted on that as surplus property. At that point I believe that that deal was done and over with because the Board action of selling it to them happened first. The surplus property vote came after that and that is all that was needed to confirm the vote that the full Board made with the Rule 14. I don't know why we are revisiting this issue because I think the precedence has already been set.

Mayor Baines stated it is my understanding that the Board must vote on reconsideration first.
Am I correct Tom?

Deputy Solicitor Arnold answered yes.

Alderman Gatsas moved the question and asked for a roll call vote.

Alderman Lopez stated I did ask for a legal opinion. Shouldn't that legal opinion be given to us before we do anything?

Mayor Baines responded I thought he just did.

Deputy Solicitor Arnold stated I believe in having spoken to Alderman Lopez that he is looking for something a little different. He, when I spoke to him, basically asked what the City's alternatives were. The alternatives are that the City could maintain its present vote, which was to reject all bids and ask that an RFP be drafted for presentation to Lands and Buildings. The second alternative was to go back and negotiate with Mr. Anagnost and MHRA. The City could certainly do that. I have since heard a third alternative, which is to negotiate with the abutter and again if the Board wants to reconsider I think you could do that.

Mayor Baines stated so we first need to vote on whether we want to reconsider. I am going to call for a vote and Alderman Gatsas has called for a roll call just on reconsidering. Aldermen Gatsas, Guinta, Sysyn, Osborne, Pinard, O'Neil, Garrity, Smith, Forest, Wihby voted yea. Aldermen Lopez, Shea, DeVries and Thibault voted nay. The motion carried.

Deputy Clerk Johnson stated the motion on the floor at this time is to refer the Old Wellington Road property back to the Lands and Buildings Committee, ask staff to draft an RFP to go out to bid and reject any and all bids. We would need to call for a vote on that motion. That is the motion on the floor.

Mayor Baines asked if the Board voted to do that what would happen.

Deputy Clerk Johnson answered it would go back to where it was prior.

Mayor Baines asked if they vote no then the whole issue is back before the Board.

Deputy Clerk Johnson answered then the motion fails and you could accept new motions.

Alderman O'Neil asked could you explain that one more time.

Deputy Clerk Johnson stated the motion on the floor basically refers the item back to the Committee on Lands and Buildings. It states that you are rejecting all bids received and it asks the staff to draft a new RFP and bring that to the Committee. If you vote yes, it goes back to Lands and Buildings and is considered for an RFP. If you vote no and that motion fails then new motions can be entertained.

Mayor Baines requested a roll call vote. Aldermen Gatsas, Guinta, Sysyn, Pinard, O'Neil, Garrity, Smith, Forest, and Wihby voted nay. Aldermen Osborne, Lopez, Shea, DeVries, and Thibault voted yea. The motion failed.

Alderman Gatsas moved that we negotiate with the abutter.

Deputy Clerk Johnson stated if the Board desires to negotiate with the abutter we would also suggest that the motion include rejecting all bids received because the bid is now still open.

Mayor Baines asked why don't we just take a separate motion that if the Board so desires to reject all bids.

Deputy Clerk Johnson answered you could do that.

Alderman O'Neil moved to reject all bids previously submitted for the property on Old Wellington Road. Alderman Sysyn duly seconded the motion.

Alderman DeVries stated I don't understand. Why are we rejecting all bids?

Deputy Clerk Johnson responded because the bids are still before the Board at this time. The rejection of the bids was part of that reconsidered motion that just failed.

Alderman DeVries asked so if we are going back to negotiate with the abutter...

Deputy Clerk Johnson interjected you cannot negotiate...you have bids before you. You need to reject your bids before you do anything else and then you can decide what you want to do from there.

Alderman DeVries asked so we can reject them and then reaccepted them. Is that what you are saying?

Deputy Clerk Johnson answered no.

Mayor Baines stated you can reject them and then the whole question becomes open for the Board again.

Alderman DeVries stated well let me...my concern is that if we reject the bids if this Board then chooses to negotiate is there a hazard that we are not going to receive at least what they bid previously.

Mayor Baines responded the Board would reserve the right as we did...just to answer your question on the sale of the garage we reserved the right to reject anything that came from staff that was negotiated. We still reserved the right to reject it.

Alderman Shea stated in a bidding process if everyone here is interested in bringing forth the most money, which I am not because I am for keeping it as it is, we are putting the bidding into the hands of one person. Why wouldn't we want to get the best possible money from this property in a bidding process? It seems to me that we are limiting the amount of money that we are going to get if we allow ourselves to be subjected to one bidder. To me it doesn't make any sense. Everyone here at one time said we should get \$650,000. Alderman Gatsas said I was the only one that did that. Well he was not the only one. Many of us opposed that initially. The point of the matter is what we are saying in essence is that one bidder can come back and bid a certain amount of money and judging from the votes here it is a done deal because everyone is going to say okay he is the best guy to do it and MHRA is the best place. To me it makes no sense at all. It is sort of like we are just saying in essence okay give it to one guy and not allow a certain amount of bidding to go on. That is my opinion, your Honor, and I think it is a valid opinion.

Alderman Gatsas stated I believe I was the only one in the Committee on Lands and Building that said \$650,000 was not sufficient and I believe two weeks ago when Alderman Shea voted for the sale of the garage I was one of the few that said we shouldn't be negotiating with just one bidder that we had other bidders who wanted to bid on the garage and that fell on deaf ears because we wanted to negotiate with the abutter. Now if we are going to follow suit then we should be negotiating with the abutter as we did two weeks ago. With that, I will call for a roll call.

Alderman Shea asked may I respond to that. Basically he is talking about apples and oranges. When he is talking about the sale of the garage, he is talking about the sale of that garage not taking into consideration the impact that it will have on the downtown and the amount of money that the people owning the Plaza are putting in. His analogy is simply not, in my mind, reasonable.

Mayor Baines answered but he thinks it is.

Alderman O'Neil stated we had a process. The team for lack of a better term that met the requirements set forth by the City with the highest price was the Manchester Housing and Redevelopment Authority with Mr. Anagnost. We were given a legal opinion that the other

firm that put in a proposal did not meet the requirements set forth by the Board so we are getting the most money under the guidelines we set for this property.

Mayor Baines asked the Clerk to state the motion on the floor.

Deputy Clerk Johnson answered the motion on the floor is to reject all bids.

Mayor Baines requested a roll call vote. Aldermen Gatsas, Guinta, Sysyn, Pinard, O'Neil, Lopez, DeVries, Garrity, Smith, Thibault, Forest and Wihby voted yea. Aldermen Osborne and Shea voted nay. The motion carried.

Alderman Gatsas moved that the City negotiate with the abutter reserving the right to refuse whatever offer may come in.

Mayor Baines asked so you would be authorizing staff like we did on the garage to negotiate with the abutter and come back with a proposal reserving the right to reject whatever is negotiated.

Alderman Gatsas answered yes.

Deputy Clerk Johnson asked could we identify who the staff are that will negotiate.

Mayor Baines answered the staff that did the last one was Planning, Finance...who would you recommend Tom.

Deputy Solicitor Arnold answered Finance, Planning and the Solicitor is fine.

Alderman Shea asked can I make an amendment that the price that comes in has to be higher than the original bid that was submitted publicly for us to make a judgement on. I would like to make that amendment.

Mayor Baines asked can the Solicitor advise us on that.

Alderman Gatsas stated I am not going to accept an amendment on my motion.

Mayor Baines replied anyone can amend a motion.

Deputy Clerk Johnson stated we don't have a second to the motion recorded yet.

Mayor Baines asked, Alderman Shea, what is your amendment again.

Alderman Shea stated my amendment is that the price that the abutter comes back to the Board with has to be greater than the original bid that the abutter submitted to the Lands and Buildings Committee that was obviously not approved by the full Board. I don't know if it was \$1.1 million or \$1.2 million or whatever.

Deputy Clerk Johnson stated your Honor I have a motion made by Alderman Gatsas. I don't have a second to that motion.

Mayor Baines responded it was seconded by Alderman Wihby. Let's get beyond that.

Deputy Clerk Johnson stated then we have Alderman Shea looking to amend the motion.

Mayor Baines stated well Alderman Wihby has a question first.

Alderman Wihby stated I understand from Alderman O'Neil that what happened is we had a bid process and the top bidder one because the other one was rejected and now we are telling the top bidder that he has to bid higher.

Alderman Shea responded that is correct.

Alderman Wihby asked why would we be telling the top bidder that he has to bid higher. I mean we are negotiating with him and maybe he will but I don't think we should accept an amendment after we went out with the bid process already and had a number and then say to him we don't want that number we want to go higher.

Mayor Baines asked is there a second to Alderman Shea's motion.

There was no second.

Alderman Osborne stated I think what Alderman Shea is trying to say is that Red Oaks came in with a bid that was higher by about \$103,000 or something. I think Alderman Shea is trying to say that he would like to have Mr. Anagnost and the MHRA come in over their bid. Is that right?

Alderman Shea replied that is correct. That is what I am trying to say.

Alderman Osborne duly seconded the motion.

Mayor Baines stated now we will have discussion just on the amendment.

Alderman Garrity stated let's remember that Red Oaks did not meet the bid requirements so they didn't qualify.

Alderman DeVries stated certainly technically they did not meet the bid requirements. I think that I voted for that to go back to an RFP process because there was an appearance, whether it was correct or not but there was an appearance of favoritism.

Mayor Baines responded the question that is before the Board right now is whether you want to support the amendment...

Alderman DeVries interjected your Honor I will finish with that.

Mayor Baines replied okay let's address the amendment.

Alderman DeVries stated certainly we could have lost over \$100,000 by not going back through the RFP process. We at least need to recoup that if we are not going to do justice and pass improprieties or appearance of improprieties from the Board. We at least need to attempt to recoup the full amount that the highest bidder came in on for that property. I think it is also important that we seek a further amendment so that we can change that closing date and have it go from June 30, which was the last RFP required and switch it to July 1 so that our options are open when we go through the budget process again next year. I realize it takes 10 votes.

Mayor Baines stated I want to totally disagree with that premise. The Board of Mayor and Aldermen acknowledges the fact that sales of property do not go towards the tax rate but that they go into a special reserve fund. I think we need to keep that in mind.

Alderman O'Neil stated I just have a clarification. I want to remind the Board that the highest bidder did not meet the legal requirements of the RFP. It was rejected. It was recommended by legal staff to reject.

Alderman Wihby stated I don't think it makes a difference if the closing date is June 30 or July 1. If this Board in the budget process wanted it to go towards the budget that date doesn't make a difference. This Board still could take 10 votes and put it all towards the budget no matter if it is June 30 or July 1.

Mayor Baines responded you are absolutely correct on that.

Alderman Pinard stated the neighborhood has spoken and the way I look at what is going on here is a lot of deaf ears. I support the neighborhood. The process has gone through and I think we should move on.

Mayor Baines called for a vote on the amendment to have it established that the highest bid be the minimum negotiated price. Alderman Gatsas requested a roll call. Aldermen Gatsas,

Guinta, Sysyn, Pinard, O'Neil, Lopez, Garrity, Smith, Forest and Wihby voted nay.
Aldermen Osborne, Shea, DeVries, and Thibault voted yea. The motion failed.

Mayor Baines asked could you repeat the main motion.

Deputy Clerk Johnson answered the main motion on the floor would be to negotiate with the abutter reserving the right to reject whatever is brought forward and the staff would be Planning, Finance and Solicitor.

Mayor Baines called for a vote. Alderman Gatsas requested a roll call. Aldermen Gatsas, Guinta, Sysyn, Pinard, O'Neil, Garrity, Smith, Forest, and Wihby voted yea. Aldermen Osborne, Lopez, Shea, DeVries, and Thibault voted nay. The motion carried.

Alderman Thibault stated I just wondered if the legal department could in fact enlighten this Board as to how Red Oak did not meet the specs because I am still unclear on that.

Mayor Baines responded the only thing I am going to say is that is a closed issue. It has been discussed and it was explained at the last meeting.

Alderman Shea stated I would like to make a comment. Many of the people on this Board pride themselves on being for the taxpayer and I have to wonder exactly how they can come back at this meeting and say that they are for the taxpayers when the taxpayers are being left in the cold by these same conservative people that are so willing to say I am for the taxpayer, I am for reducing the tax rate all the time. I am not elaborating on other people. I am just saying that it surprised me and I am deeply offended by their hypocrisy your Honor.

Mayor Baines responded people could be offended by the fact that other people are questioning other people's judgements and opinions. I think it is disrespectful to the Board if the Board takes a position or individual Aldermen take a position to have their motives questioned by another member of the Board. That is what I believe. That is the end of that.

Alderman Shea stated I would like to comment because these same people get before the Board and they start saying how much they are going to save the taxpayers when it comes time.

Mayor Baines responded you are out of order on that.

NEW BUSINESS

Request for Rezoning of the Central Business District from Robert MacKenzie,
Planning Director.

Deputy Clerk Johnson stated the Clerk has distributed a communication from the Planning Director. It is regarding rezoning of property. It is basically considered a petition for rezoning. It does deal with the CBD District and we are looking for a motion to refer that to the Committee on Bills on Second Reading and to the public hearing with the date to be set 30 days forward after notification to the Planning Board, Solicitor and Building Department.

Alderman O'Neil moved to refer the rezoning petition to the Committee on Bills on Second Reading and to public hearing with a date to be set 30 days forward after notification to the Planning Board, Solicitor and Building Department. Alderman Garrity duly seconded the motion.

Alderman Gatsas asked can I have a moment to read this.

Mayor Baines answered well we are just referring it.

Alderman Gatsas stated well I would still like to read it because you told me it was important that we read whatever we move along. Can I have a five-minute recess so I can read this?

Mayor Baines responded with all due respect it is going to Committee.

Alderman Gatsas stated your Honor it was by your request that we read everything before we vote on it.

Mayor Baines responded all we are doing is voting to send it to Committee.

Alderman Gatsas stated I don't even want to send it to Committee until I read it.

Mayor Baines responded well we will find out where the votes are for that. I am going to call for a vote.

Alderman Gatsas requested a roll call.

Deputy Clerk Johnson asked can I just clarify who seconded the motion.

Mayor Baines answered Alderman Garrity.

Mayor Baines called for a recess.

Mayor Baines called the meeting back to order.

Deputy Clerk Johnson stated the motion on the floor is to refer the rezoning petition to the Committee on Bills on Second Reading and to public hearing after notification to appropriate departments.

Alderman Gatsas stated after reading this and checking with Mr. MacKenzie, this doubles the actual zoning input of apartments in the CBD district. That is a pretty significant change in density. It actually doubles it.

Mr. Robert MacKenzie stated the Alderman is correct your Honor. It provides for...instead of allowing one unit per 1,000 square feet of buildable area it would be one unit per 500 square feet of buildable area. We did review this with our staff. Basically there was no minimum prior to 2001. You could put as many units on a site as you could physically build. When the new zoning ordinance came in in 2001 there was a number selected, which was 1,000 square feet per unit. We have since gone back to calculate some of the other projects and what impact the new regulations would have on them. We did find that for example Wall Street Towers on Canal Street could not have been built under our current regulations. We did feel, and this came out of our discussions with the Riverfront Development team and the applicant who was looking for additional flexibility for their proposal and our staff did feel that given there were no minimums prior to 2001 and looking at several downtown properties that we could adjust this new number from 1,000 square feet to 500 square feet.

Mayor Baines stated again the issue before us tonight is to refer this to Committee and to public hearing.

Alderman Gatsas stated my question is the two schools that are involved in this district are Bakersville and Beech. I think somebody should tell us what the impacts to those schools are because how much...is there 16 acres down on the riverfront?

Mr. MacKenzie responded as I remember we did meet with the Building Department to determine buildable area. This change would not affect that entire riverfront site. It would only affect the area north of the railroad bridge, not south of it. As I remember in the calculations it was roughly 100,000 square feet of buildable area. This provision, therefore, would allow up to 200 units on the site.

Alderman Guinta asked, Bob, is there an expectation for the Bridge and Elm project and what the impact would be to the schools.

Mr. MacKenzie replied I am going to answer that a little bit indirectly. Again, prior to 2001 there were no limitations on density but there was really no significant impact from downtown housing on the schools.

Alderman Guinta asked could you expand on the second part. I guess my point is some of the research that I have done when you have high-rise or downtown residential meaning condos, townhouses or high-rises they tend to be and correct me if I am wrong but there tends to be less if any impact on the school system.

Mr. MacKenzie answered it is probably not zero but I would call it negligible. Typically downtown apartments of this type like high-rises have empty nesters and single people and generally there is a negligible impact on the school system.

Mayor Baines stated I am going to call for a vote to refer this to a public hearing and to the Committee on Bills on Second Reading. There being none opposed, the motion carried.

TABLED ITEM

- 11.** Request for discontinuance of a portion of Millstone Avenue.
(Tabled 08/04/2003 at road hearing pending report from City Solicitor.)

This item remained on the table.

- 12.** Communication from the Chief Negotiator requesting to meet with the Board for a negotiation strategy session.

On motion of Alderman Forest, duly seconded by Alderman Thibault it was voted to recess the meeting to meet with the Chief Negotiator for a negotiation strategy session.

Mayor Baines called the meeting back to order.

On motion of Alderman Shea, duly seconded by Alderman Sysyn, it was voted to ratify the Manchester Educational Support Personnel Association (MESPA) contract in accordance with the November 14, 2003 memorandum and to waive Rule 26.

Mayor Baines stated I do want to make a statement that I made to the School Board the other night. These people that work in our schools are some of the most dedicated people, important people to the organization as Alderman Shea and I can attest to. They have conducted themselves with such a high degree of professionalism throughout this long ordeal if you will and I want to commend them again publicly for their professionalism, which is evident each and every day that they go to work dealing with this situation. I think you exemplified professionalism in dealing with the contract situation and I want to publicly commend you for that.

There being no further business, on motion of Alderman Thibault, duly seconded by Alderman Shea it was voted to adjourn.

A True Record. Attest.

City Clerk